

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAVID I. CISMARU, )  
vs. )  
CAROLYN W. COLVIN, )  
Acting Commissioner of Social Security, )  
Plaintiffs, )  
Defendant. )  
)  
Case No. 2:14-cv-01432-RFB-GWF  
**ORDER**  
Plaintiff's Application to Proceed  
in Forma Pauperis (#1)

This matter is before the Court on Plaintiff's Application to Proceed *In Forma Pauperis* (#1), filed on September 4, 2014.

## BACKGROUND

Plaintiff alleges a claim against the Social Security Administration (SSA), challenging its denial of social security disability benefits. Plaintiff alleges that at all time relevant to this action, he was disabled as defined by the Social Security Act. Plaintiff claims that the Social Security Commissioner, initially and upon reconsideration, denied his request for disability insurance benefits and supplemental security income. Plaintiff states that he timely requested review of the ALJ's decision with the Appeals Council, which was denied on July 22, 2014. Plaintiff now seeks judicial review of that final agency decision.

## DISCUSSION

## **I. Application to Proceed In Forma Pauperis**

Plaintiff filed this instant action and attached a financial affidavit to his application and complaint as required by 28 U.S.C. § 1915(a). Having reviewed Plaintiff's financial affidavit pursuant to 28 U.S.C. § 1915, the Court finds that Plaintiff is unable to pre-pay the filing fee. Therefore, Plaintiff's request to proceed in forma pauperis in federal court is granted.

1           **II.      Complaint**

2       Plaintiff brings suit against the SSA alleging he was wrongfully denied social security disability  
3 benefits. Federal courts only have jurisdiction to conduct judicial review of the SSA's final decisions.  
4 See 42 U.S.C. § 405(g); see also *Pacific Coast Medical Enterprises v. Harris*, 633 F.2d 123, 137 (9th  
5 Cir. 1980). Plaintiff appears to have fully exhausted his administrative remedies with the SSA. The  
6 Court will therefore allow Plaintiff's complaint to proceed as a petition for judicial review of a final  
7 agency decision. Accordingly,

8           **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed *In Forma Pauperis* (#1) is  
9 granted with the caveat that the fees shall be paid if recovery is made. At this time, Plaintiff shall not  
10 be required to pre-pay the full filing fee of four hundred dollars (\$400.00).

11           **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the Complaint.

12           **IT IS FURTHER ORDERED** that the Clerk of the Court shall serve the Commissioner of the  
13 Social Security Administration by sending a copy of summons and Complaint by certified mail to: (1)  
14 Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear Street,  
15 Suite 899, San Francisco, California 94105, and (2) the Attorney General of the United States,  
16 Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.

17           **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue summons to the United  
18 States Attorney for the District of Nevada, and deliver the summons and Complaint to the U.S. Marshal  
19 for service.

20           **IT IS FURTHER ORDERED** that Defendant shall have **sixty (60) days** from the date of  
21 service to file its answer or responsive pleading to Plaintiff's Complaint in this case.

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1       **IT IS FURTHER ORDERED** that henceforth, Plaintiff shall serve upon Defendant, or their  
2 attorney if they have retained one, a copy of every pleading, motion, or other document submitted for  
3 consideration by the court. Plaintiff shall include with the original paper submitted for filing a  
4 certificate stating the date that a true and correct copy of the document was mailed to Defendant or their  
5 counsel. The court may disregard any paper received by a district judge, magistrate judge, or the Clerk  
6 which fails to include a certificate of service.

7                     DATED this 5th day of September, 2014.

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11                    GEORGE FOLEY, JR.  
12                    United States Magistrate Judge  
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